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December 5, 2021

**VIA ECF & EMAIL (Failla NYSDChambers@nysd.uscourts.gov)**

Hon. Katherine Polk Failla  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: In re Application of Makhpal Karibzhanova  
for Judicial Assistance Pursuant to 28 U.S.C §1782  
Civil Action No. 21-mc-442 (KPF)**

Dear Judge Failla:

We write in response to the letter motion (the “Motion”) that Your Honor received this Sunday afternoon from Adam S. Kaufmann, Esq., counsel for Ms. Makhpal Karibzanova (“Makhpal”) and whose partner and co-counsel John Moscow serves as court-appointed Commissioner in the above-referenced Section 1782 action, seeking to adjourn the oral argument scheduled for Tuesday, December 7, 2021 on (i) Mr. Aidan Karibzanov’s (“Aidan”) motion to vacate the Section 1782 Order, and (ii) Ms. Jasmine Karibzanova’s motion for a protective order. Our clients have been traveling internationally since we received this request and it has proven difficult for them to consult not only with their U.S. lawyers, but also for Aidan to consult with his Kazakh attorneys, in order to evaluate the basis for the adjournment request. Please be advised that our clients do not consent to the adjournment of the December 7 hearing, and instead recommend that the better course here, for the reasons stated herein, is to simply dismiss this Section 1782 Proceeding at this time.

First, despite the fact that this Court set the December 7 hearing on or about November 4, 2021, we only received a request to adjourn Tuesday’s hearing on Thursday night, December 2, after business hours, on the purported basis that Makhpal is seeking to commence mediation proceedings with Aidan in the Kazakh courts. However, we are not aware that there are any proceedings currently pending in Kazakhstan involving Makhpal and Aidan, because all such actions and all appeals relating thereto have been dismissed. Apparently, Makhpal’s counsel believes that she may file another lawsuit in Kazakhstan, but no further action has been filed, despite counsel’s sworn representation to this Court in late August that he would be filing a lawsuit “as soon as possible.” Dkt. No. 32 at ¶ 7. Further, while Aidan and his lawyers have received a letter dated December 2, 2021 from Kazakh counsel for Makhpal requesting

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mediation proceedings, Aidan has not been able to respond to that letter in any substantive manner, and will not be in a position to do so before Tuesday's hearing.

That said, the Motion and the attached stipulation make clear that Makhpal and her counsel are proposing to stay the issuance of any further subpoenas as well as the enforcement of any outstanding subpoenas in this action in connection with Makhpal's adjournment request. As Your Honor is aware, Makhpal and her New York counsel have had five and a half months since the granting of the Section 1782 Order to seek discovery here, and have served approximately twenty-eight (28) subpoenas during that time period (the last of which was served on or about October 13, 2021, after Makhpal's last application seeking permission for a further appeal from the Supreme Court on one of her previous claims was dismissed). Makhpal and her lawyers, therefore, have had sufficient time to seek discovery pursuant to the Section 1782 Order, and presently do not see the need for any more. Therefore, a dismissal of this action with a protective order barring the use of any information discovered to date to be used for any purpose other than in Kazakh proceedings (should there be any) will not prejudice Makhpal's interests in any respect. If Makhpal later determines that a further Section 1782 discovery is necessary, she may file such action on notice, once any proposed mediation proceedings in Kazakhstan are either rejected, terminated or concluded, and Aidan may be heard on the merits of that application at that time.

We are available to discuss this matter tomorrow, if the Court so desires.

Thank you for Your Honor's attention to this matter.

Respectfully submitted,

*s/ Patrick D. Bonner Jr.*

Patrick D. Bonner Jr.

cc: Adam S. Kaufmann, Esq. (By ECF & Email)  
John Moscow, Esq. (By ECF & Email)